REMARKS

Applicant acknowledges receipt of an Office Action dated May 20, 2008. In this response, Applicant has amended claims 1, 6, and 7. Following entry of this amendment, claims 1-3 and 6-12 are pending in the application.

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Rejection Under 35 U.S.C. § 112, Second Paragraph

On page 2 of the Office Action, the PTO has rejected claims 1-3, and 6-12 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant has amended claims 1, 6, and 7 to correct the informalities cited by the PTO.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under § 112.

Rejection Under 35 U.S.C. § 102

On page 2 of the Office Action, the PTO has rejected claims 1-3 and 7-11 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent 6,901,922 to Kent *et al.* (hereafter "Kent"). Applicant respectfully traverses this rejection for at least the reason set forth below.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Here, Kent fails to disclose a fixing device for an oil cooler wherein "wherein there is a latching connection between the oil cooler receiving element and the oil cooler, the latching connection centers and fixes the oil cooler in the oil cooler receiving element, and the latching connection is kept pretensioned in a desired position by an energy store" as recited in independent claim 1.

The bracket of Kent is held in the clamping position by "a plurality of snap posts 52 extending for one flange 40 have hooked ends that snap into latch holes 54 in the other flange 40." Kent, Col. 4, lines 7-9. Kent does not disclose that the bracket is "a latching connection

between the oil cooler receiving element and the oil cooler," and does not even disclose that the heat exchanger is an oil cooler. Furthermore, the posts of Kent do not "centers and fixes the oil cooler in the oil cooler receiving element" as presently claimed. Rather, the heat exchanger of Kent is fixed by the two halves of the bracket as illustrated in Figures 8-9 of Kent.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under § 102.

Rejection Under 35 U.S.C. § 103

On page 3 of the Office Action, the PTO has rejected claims 6 and 12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kent. Applicant respectfully traverses this rejection for at least the reasons set forth below.

The framework for the objective analysis for determining obviousness under §103 requires:

1. Determining the scope and content of the prior art;
2. Ascertaining the differences between the claimed invention and the prior art;
3. Resolving the level of ordinary skill in the pertinent art; and
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Teleflex, Inc. v. KSR Int'l Co., 127 S. Ct. 1727, 82 USPQ2d 1385 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966).

Here, Kent fails to teach or suggest a fixing device for an oil cooler wherein "wherein there is a latching connection between the oil cooler receiving element and the oil cooler, the latching connection centers and fixes the oil cooler in the oil cooler receiving element, and the latching connection is kept pretensioned in a desired position by an energy store" as recited in independent claim 1 and discussed above.

For at least this reason, Applicant submits that the outstanding rejection based upon Kent is improper and ought to be withdrawn.

If an independent claim is nonobvious under § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988). See MPEP 2143.03.

Thus, Applicant submits that claims 2-3 and 6-12, each of which ultimately depends from independent claim 1, are also non-obvious at least by virtue of their dependency from claim 1.

In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection under § 103.

CONCLUSION

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 8/20/08

By _____

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